

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

CHAD ALAN CAPPIELLO, #2262766

VS.

DIRECTOR, TDCJ-CID

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CIVIL ACTION NO. 4:19cv264
consolidated with 4:22cv78

ORDER OF DISMISSAL

The above-entitled and numbered civil action was referred to United States Magistrate Judge Christine A. Nowak, who issued a Report and Recommendation concluding that the petition for writ of habeas corpus should be denied and dismissed with prejudice. Petitioner filed objections.

In the objections, Petitioner reurges the claims that he raised in his 28 U.S.C. § 2254 petition. Despite his arguments, Petitioner fails to show that the evidence was insufficient to support his theft convictions. He also fails to show that he is entitled to relief based on the admission of extraneous offense evidence. Additionally, Petitioner fails to show that trial counsel and appellate were ineffective. Furthermore, issues raised for the first time in Petitioner's objections are not properly before the court and need not be addressed. *See Finley v. Johnson*, 243 F.3d 215, 218 n.3 (5th Cir.2001) (citing *United States v. Armstrong*, 951 F.2d 626, 630 (5th Cir. 1992)); *Cupit v. Whitely*, 28 F.3d 532, 535 n.5 (5th Cir. 1994). Petitioner fails to show the Report and Recommendation is in error or that he is entitled to habeas relief.

The Report of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration. Having made a *de novo* review of the objections raised by Petitioner to the Report, the Court concludes that the findings and conclusions of the Magistrate Judge are correct. Therefore, the Court hereby

adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court.

It is accordingly **ORDERED** the petition for a writ of habeas corpus is **DENIED** and the case is **DISMISSED** with prejudice. A certificate of appealability is **DENIED**.

It is further **ORDERED** that all motions not previously ruled on are hereby **DENIED**.

SIGNED this 19th day of September, 2022.


AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE